IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.171 of 2006

S.Rathinasamy ... Petitioner

Vs.

1.The District Magistrate and
District Collector,
Erode District,
Erode.

2.The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 9. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenu Saravanan S/o Rathinasamy before this Court, who is detained as per the order of detention passed by the first respondent in Cr.M.P.No.14/2005/C1 dated 02/08/2005 and confined at Central Prison, Coimbatore and set him at liberty and call for the records relating to the above said order and quash the same.

For Petitioner : Mr.O.S.Thilak

For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the father of the detenu by name Saravanan, who was detained as a "Video Pirate" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the

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impugned detention order dated 02.08.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. It is not in dispute that the detenu himself has filed HCP No.1041 of 2005 challenging the detention order dated 02.08.2005. It is also not in dispute that by a considered order dated 23.01.2006, after hearing both the counsel and noting all the points and finding that no valid ground for interference, upheld the order of detention and dismissed the said petition. Questioning the very same detention order, now the father of the detenu has filed the present petition.

4. Though the learned counsel for the petitioner has pointed out that the detaining authority has committed an error in finding that the detenu was detained as Video Pirate, in order to maintain public order and public health, the very same contention was also raised in the earlier petition filed by the detenu in HCP No.No.1041 of 2005(vide para 9 therein). In that order, after referring the relevant paragraph viz., 6 and the submission of the learned counsel for the petitioner as well as the learned Public Prosecutor, the Division Bench has concluded thus:

> "It is true that in paragraph No.6, the detaining authority, while referring the fact that the detenu will indulge in further activities prejudicial to the maintenance of "public order", has also stated "public health" which is not warranted. As pointed out by the learned Government Advocate, in the earlier paragraphs, particularly in paragraph No.5, since the detaining authority has correctly mentioned that he was aware of the fact that if the detenu comes out on bail, he will indulge in further activities which will be prejudicial to the maintenance of "public order", it is clear that the detaining authority was well aware that the future activities of the detenu will be prejudicial to the maintenance of "public order". Merely because there is a reference to "public health" in paragraph No.6, it cannot be construed that the detaining authority has not applied his mind before passing the impugned order of detention. Hence, we reject this contention also."

5. In the light of the said conclusion and the detailed order dated 23.01.2006, the contention raised in this petition is liable to be rejected. There is no valid ground for interference, more particularly,

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in view of the earlier order dated 23.01.2006. Accordingly, this Habeas Corpus Petition fails and the same is dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1.The District Magistrate and District Collector, Erode District, Erode.

2.The Secretary to Government of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

3.The Superintendent, Central Prison, Coimbatore.
(In duplicate for communication to the petitioner)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

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